

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED

OCT 26 2018

ANTHONY J. KIRBY,

Plaintiff,

v.

UNKNOWN,

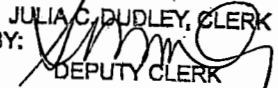
Defendant(s).

CASE NO. 7:18CV00267

MEMORANDUM OPINION

By: Hon. Glen E. Conrad

Senior United States District Judge

JULIA C. DUDLEY, CLERK  
BY:   
DEPUTY CLERK

Plaintiff Anthony J. Kirby, proceeding pro se, filed a civil rights complaint, pursuant to 42 U.S.C. § 1983, concerning events in 2017 at Green Rock Correctional Center. Kirby has not provided the court with his current address, however. By order entered June 13, 2018, the court advised Kirby that a failure to update his mailing address promptly would result in dismissal of this action. The court's order entered October 2, 2018, and mailed to Kirby on that date at the address he provided with his complaint, has been returned as undeliverable. Accordingly, the court finds that, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, Kirby has failed to prosecute this action. See Ballard v. Carlson, 882 F.2d 93, 96 (4th Cir. 1989) (stating pro se litigants are subject to time requirements and respect for court orders and dismissal without prejudice is an appropriate sanction for non-compliance); Donnelly v. Johns-Manville Sales Corp., 677 F.2d 339, 340-41 (3d Cir. 1982) (recognizing a district court may sua sponte dismiss an action pursuant to Fed. R. Civ. P. 41(b)). An appropriate order will enter this day.

Kirby is advised that if he intends to proceed with this action, he must petition the court within 30 of the entry of this order for a reinstatement of this action. Any motion for reinstatement should provide specific explanation for his failure to provide the court with an updated address.

The Clerk is directed to send a copy of this order to the plaintiff and to counsel of record for the defendant.

ENTER: This 26<sup>th</sup> day of October, 2018.

  
Senior United States District Judge